

Special and Regular Meeting of October 26, 2010

**SPECIAL MEETINGS**

**CLOSED SESSION - 7:00 P.M.**

- A. Conference with Legal Counsel pursuant to Government Code Section 54956.9(b): Significant exposure to litigation, one case
- B. Conference with Legal Counsel pursuant to Government Code Section 54956.9(a), Existing Litigation, Folks v. City of Belmont
- C. Conference with Real Property Negotiator Scoles pursuant to Government Code Section 54956.8: One Parcel: APN 045-244-010
- D. Conference Pursuant to Government Code Section 54957 Regarding Public Employee Performance Evaluation: City Attorney

Attended by: Attended by: Councilmembers Feierbach, Warden, Wozniak, Lieberman (not present for Item A), City Manager Scoles, Community Development Director de Melo, Finance Director Fil, City Attorney Zafferano. City Clerk Cook was excused from attending.

**ADJOURNMENT** at this time being 7:30 P.M.

**Terri Cook**  
**City Clerk**

This meeting was not tape recorded or videotaped

**REGULAR MEETING –  
CALL TO ORDER 7:35 P.M.**

**ROLL CALL**

COUNCILMEMBERS PRESENT: Feierbach, Warden, Lieberman, Wozniak, Braunstein

COUNCILMEMBERS ABSENT: None

Staff Present: City Manager Scoles, City Attorney Zafferano, Finance Director Fil, Human Resources Director Dino, Police Chief Mattei, Fire Chief Fry, Community Development Director de Melo, Deputy Finance Director Lazzari, Parks and Recreation Director Gervais, City Treasurer Violet, City Clerk Cook.

**REPORT FROM CLOSED SESSION**

City Attorney Zafferano stated that Items A and B were addressed earlier, with no action taken. He noted the remaining items would be taken up following the adjournment of the regular meeting.

**SPECIAL PRESENTATIONS**

**Proclamation Declaring Pancreatic Cancer Awareness Month**

Mayor Wozniak read the proclamation.

**Catherine Quon**, Belmont resident, stated that she is an eight-year survivor of pancreatic cancer. She provided statistics regarding funding comparisons for various types of cancers. She stated that the intent of the proclamation is to promote awareness of this deadly disease.

#### **Presentation of Hereditary Breast and Ovarian Cancer Proclamation**

Mayor Wozniak noted that she issued this proclamation a month prior. She introduced a representative from FORCE (Facing Our Risk of Cancer Empowered).

**Eva Bryer**, Outreach Coordinator for FORCE, made a brief presentation regarding hereditary cancer, risk factors, and statistics.

#### **PUBLIC COMMENTS AND ANNOUNCEMENTS**

**Kathleen Beasley**, Belmont Library Manager, introduced Dolly Goyal, the new Teen Services Librarian.

**Dolly Goyal**, Teen Services Librarian, outlined the goals of the programs offered to youth. She stated that she desired to provide a positive space for teens, more after-hours events, and to provide a voice for teens in the community.

**Mary Ridge**, Belmont resident, expressed concern regarding the price of a recreational class she has been taking through the Senior Center. She noted that the senior population in Belmont is growing. She expressed concern that the bingo provider is now being charged rent, and she requested information regarding the allocation of revenues from the sale of bread and other items. She noted that former Councilmember Dickenson, who was president of the Sterling Downs Neighborhood Association, has money that belongs to the Association.

#### **COUNCIL MEMBER COMMENTS AND ANNOUNCEMENTS**

Mayor Wozniak made the following announcements: 1) reminder about Election Day on November 2<sup>nd</sup>; 2) Recology Outreach meeting on the new trash service to be held on October 28<sup>th</sup>; 3) Friday, October 29<sup>th</sup> would be a Day of Remembrance activity; 4) Sign Ordinance Outreach Meeting on October 28<sup>th</sup>; 5) Red Ribbon Week; and 6) the recent visit from second graders from Nesbit School.

#### **CONSENT CALENDAR**

**Approval of** Minutes of Special and Regular Meeting of September 28, 2010 and Special and Regular Meeting of October 12, 2010

**Acceptance of** Informational Report for the U.S. Highway 101 Pedestrian/Bicycle Bridge Project, City Contract Number 433

**Approval of** Resolution 10292 Amending the Conflict of Interest Code

**ACTION:** On a motion by Councilmember Braunstein, seconded by Councilmember Warden, the Consent Agenda was unanimously approved by a show of hands.

#### **HEARINGS**

**Public Hearing to Consider an Appeal of the Planning Commission Decision Approving a Conditional Use Permit Amendment for the Koret Athletic Field for Notre Dame De Namur University (NDNU) At 1500 Ralston Avenue**

Councilmember Lieberman stated that because he lives within 300 feet of the Notre Dame de Namur University (NDNU) property, he would need to recuse himself from this matter. He stepped off the dais and out of the room.

Mayor Wozniak stated that due to the complexity of this issue, and the volume of written material received, she proposed to hear the matter this evening, but to continue the hearing to a subsequent meeting. She outlined the process that would be used for tonight's hearing.

Community Development Director de Melo stated that the University is requesting an amendment to the existing Conditional Use Permit (CUP) for Koret Field. He outlined the conditions of use addressed in the CUP, and described the hearings held by the Planning Commission. He noted that the Commission approved the amended CUP, which has been appealed to the City Council. He stated that the amended CUP is easy to understand and enforce, and that it regulates days and hours of operation, but does not outline who or what groups are allowed to be on the field. He noted that staff's recommendation is to uphold the Planning Commission's decision, as the Commission did not abuse its discretion in amending the CUP. He noted that much correspondence has been received on this matter.

Mayor Wozniak opened the Public Hearing.

**Margaret Davis**, Belmont resident/Co-Appellant, stated that this matter was appealed based on two factors: 1) the claim by staff that this CUP is categorically exempt from environmental review via CEQA (California Environmental Quality Act), and 2) the failure of the Planning Commission to use its discretion to protect neighbors from noise. She stated that the use of Koret Field has increased since the new field was installed, which has resulted in an increase in noise. She noted that the NDNU Master Plan adopted in 2000 does not mention the field. She explained that Belmont's Noise Ordinance allows for a decibel level of 65, but the World Health Organization sets that number at a lower level. She stated that the noise ordinance has been ignored by the City and by NDNU.

Ms. Davis stated that NDNU has taken some steps to mitigate noise, but noise continues to exist. She recommended a limit on the hours of operation, a limit on who may use the field, and a prohibition on the use of noise makers. She further recommended that the use of the field be allowed only by the University, and that there should be no use of the field on Sundays. Verbiage should be included in the CUP to prohibit the installation of lights on the field. She acknowledged the shortage of available fields in the area for youth sports, and commented that they should not rely on one field only. She recommended upgrading the Sports Complex to accommodate needs. She also recommended that should the City Council support the accommodation of youth sports at Koret Field, there should be a one-year review on the new CUP.

Ms. Davis expressed concerns regarding safety due to the potential toxicity of the artificial turf that was installed at Koret Field.

**Matt Covington**, Belmont resident, clarified that he is not a co-appellant, but is an attorney and a neighbor of NDNU who was asked by the co-appellants to speak regarding the issue of CEQA. He described a court of appeals case wherein it was determined that a conditional use was not exempt from a CEQA hearing. He noted that the amended CUP increases the number of days that the field can be used. He noted this change dramatically increases the number of hours of use. He also pointed out that the number of special events allowed has been increased, with no restrictions regarding amplification of sound. He noted that staff contends that the existing CUP is an enforcement problem. He disagrees with the results of the noise study that was conducted. He pointed out that the Campbell court case cited by NDNU's attorney is not applicable, as it addressed the renewal of a license, not an amended CUP.

**Richard Hughes**, Belmont resident/Co-Appellant, stated that until the Koret Field was replaced, he never heard noise from the field. He stated he is unable to entertain using his outdoor space when there is a game and that he is entitled to peace and quiet. He noted that NDNU does not pay taxes. He stated that no City official visited his home during games to experience the noise.

**Gordon Seely**, Belmont resident/Co-Appellant, stated that it is not too late to correct a mistake that was made. He noted that planning for the field did not take geography into effect. Neighbors were not notified when the field was constructed, and it has a significant negative impact on the neighborhood. He stated it is a misplaced field, and trees have been removed. The previous University president promised baffling that was not installed. The ease of enforcement of the CUP has been placed ahead of the affect of the conditions on the neighbors. He recommended including language in the CUP to prohibit lighting of the field. He stated that an Environmental Impact Review should be performed. He cited the clause in Belmont's vision statement that describes Belmont having a tranquil environment.

**Judith Greig**, NDNU President/Project Applicant, stated that the University would have preferred a consensus agreement. She noted that all parties spent two years in meetings until it became clear that consensus was not possible. She stated that the existing CUP is too flawed to continue operating under its conditions. She noted the new CUP is more restrictive than the existing one. There have been few complaints regarding the use of the field for soccer.

**Mark Haesloop**, Attorney for NDNU, stated that he submitted the opinion regarding CEQA, and that the exemption applies. He noted that courts draw a line regarding what is acceptable and not acceptable, and that there needs to be a major physical change to a facility to trigger the need for an environmental review. He noted that in the case of Koret field, there has been no change in the facility and no change in its use. He clarified that the special events that will take place on Koret Field are already taking place elsewhere on campus. He commented that the Planning Commission did a good job analyzing all issues.

In response to Council questions, Mr. Haesloop clarified that the CEQA checklist determining the insignificant impact was provided to City staff. He also clarified that the amended CUP has restrictions that were not in existence in the previous CUP, and there has been a minimal variance in the hours of operation, which is insignificant.

Dr. Greig stated that this has been a difficult issue for all parties. She noted that two acoustical studies were performed. NDNU students feel unwelcomed in the community. The University desires to share its resources. She stated that the current CUP contains unreasonable restrictions, is a burden on enforcement, and does not allow the University to serve other youth in the community. She commented that the University has been working hard to be a good neighbor and has made an effort to mitigate issues regarding Koret Field. It has implemented many recommendations, including fencing the berm, changing the direction of the speakers, reminding spectators about the prohibition of noise makers, reducing weekend hours, and initiating blackout dates.

Dr. Greig noted that she participated in the City's visioning process. She outlined the issues to be addressed by the City Council. She also noted that the University would like to accommodate youth sports. She clarified that the field has been tested, and it does not contain any lead.

**RECESS: 9:00 P.M.**  
**RECONVENE: 9:10 P.M.**

**Robert Lowe**, Mt. View resident, questioned whether graduation was included as a special event. He noted that football games are noisy. He commented that the Planning Commission gave NDNU whatever they wanted. He noted that lights will be needed for them to play into the evening hours during the winter.

**Kelsey Baxter**, NDNU student, stated that practicing helps athletes. Having Koret Field available means less travel for practices and games. She noted that they are using the gym which stresses the body. The new agreement will make Koret Field available for youth sports. She noted it is used by Notre Dame High School, and that she is coaching the high school students.

**Chris Zaino**, Belmont resident/Belmont United Soccer Club, expressed support for the proposed amendments to the CUP. He noted that the soccer field is a resource, and that the University needs the resource on a daily basis. He described the impact of living near the Crystal Springs race course, and he commented that every neighborhood should be accommodating to youth sports.

**Greg Snow**, Belmont resident/AYSO, expressed support for the proposed CUP amendments, and noted there is a need for field space. He clarified that fields are closed when it rains. The University has been a good partner. He described an incident wherein the police were called when a youth soccer team was using Koret Field.

**Elliott Katz**, Belmont resident, stated that he lives near Koret Field, works from home, and does not hear the noise. He commented that Belmont should embrace kids playing, and that traffic noise is more of an issue.

**Mike Davies**, Belmont resident, Belmont-Redwood Shores Little League, expressed support for the amended CUP.

**Steve Kelley**, Belmont resident/AYSO coach, stated that there are needs for the Belmont community, not just a few people. He stated that Koret Field is a valuable asset, and people should exercise tolerance. He commented that kids at play produces a tranquil racket, and kids should be involved in healthy activities.

**Will Church**, NDNU student, stated that the amended CUP allows the University to spread out the activities.

**Alexander Rose**, NDNU student, noted that NDNU athletes perform community service. He stated that students only hear complaints. He invited the community to attend games.

**Eric Ravaglia**, Belmont resident/AYSO, expressed support for the amended CUP.

**Roxanne Kelly**, no address given, stated that she sympathizes regarding this issue, as she lives near Carlmont High School. She noted that NDNU neighbors will see an increase in noise. She described the early and late hours issue at Carlmont High. She noted that affected neighbors are as important as youth sports players.

**Alan Sarver**, Belmont resident, stated that he hears noise from Koret Field, but it is intermittent and is less than the traffic noise from Ralston Avenue. He commented that the field noise is joyful compared to traffic noise and has no negative impact. He stated that what is proposed for Koret Field is a good use of the facility and is in a good location.

**Dave Adams**, Belmont resident/AYSO, stated that other fields are not usable during the rainy season, and Koret Field provides a good alternative.

**Jean Snider**, Belmont resident, expressed support for the amended CUP, and noted this is a great opportunity for youth sports. She stated that she used to live near Tierra Linda School and accepted the use of the field when she moved there. She now lives near the Crystal Springs track course.

**Katie Snider**, Belmont residents, stated that other cities have turf fields and she would like the opportunity to host kids from other cities on a turf field.

**Maureen Dermenjian**, Belmont resident, expressed support for the amended CUP. She noted that the Notre Dame campus existed before the neighbors bought homes nearby.

**Carolyn Thompson**, Belmont resident, stated that NDNU has been a good neighbor and has invited the community to many events on campus. She noted that she never noticed the noise until she began attending neighborhood meetings. She commented that it is good noise, and the community needs healthy kids. She supports the amended CUP.

**Tom Snider**, Belmont resident, Belmont United Soccer Club (BUSC), stated that this is an opportunity to do something wonderful for the community. He commented that Koret Field is an asset, and the proposed amended CUP does not represent any changes in the way the field is

being used. It meets the General Plan goals, the Visioning statement, and the goals of the Parks Master Plan. He noted that Belmont is deficient in park space.

**Lyra Ghose**, Belmont resident/BUSC, stated that change is difficult, and everyone is competing for the same resources. There are not enough fields, and the Belmont Sports Complex is being used to capacity. There is a need for safe playing space for kids.

**Jacki Horton**, Belmont resident, expressed support for the amended CUP. She noted that other fields in Belmont are surrounded by residences.

**Manouch Ghajar**, Belmont resident, stated that there is demand for field space, and that NDNU is willing to allow youth sports to use Koret Field. He noted that this matter cannot be compared to the race track as cited by the court of appeals case. He commented that the City Council needs to decide what is best for the majority. He noted that over 200 people signed a petition in support of the amended CUP.

**Kris Morgan**, Belmont resident, stated that noise travels, and that Ralston Avenue is noisy. She expressed support for the amended CUP. She noted that the two acoustical studies showed that Ralston Avenue is noisier than Koret Field. She commented that the community has changed, and there is a need to meet the needs of the community. She expressed her appreciation for the cooperation shown by NDNU.

**Chuck Horton**, Belmont resident, expressed the need to redefine noise. He stated that traffic and trains are noisy, but field noise is good noise.

**Kathleen Stewart**, Belmont resident, shared a letter from Belmont resident Phyllis Armstrong. She stated that Ms. Armstrong has never felt a need to complain before. Ms. Armstrong stated that the noise from Koret Field is positive noise, and that NDNU has been a perfect neighbor. She expressed support for youth sports, and that the field is an asset and a gift to the community.

**Doug Patterson**, Belmont resident, stated that people should recognize there will be noise from schools when one lives nearby. He expressed support for the amended CUP, and commented that there is a need for field space.

**Giuliano Carlini**, Belmont resident, stated that he can hear the noise from both Koret Field and Carlmont High School. He commented that it is joyous noise. He noted that it is a small minority who find the noise annoying, and that a majority of people support the amended CUP.

**Warren Lieberman**, Belmont resident, stated that the City Council represents all residents. He noted that the Planning Commission made the correct decision, and he recommended longer playing hours on Sundays. He expressed sensitivity to noise concerns, and suggested that the City Council look into policies that could address noise, such as the use of double-pane windows. He stated that amplified noise is not an issue.

**Peter Pham**, Belmont resident, stated that he lives directly across from Koret Field, and noted that the use of air horns is the biggest issue.

(End of Public Comment period.)

**Matt Covington**, on behalf Appellants, stated that changes in the field use, including increased number of days and hours, is likely to trigger the requirement for a CEQA review. He disagrees that there is no change in use, and noted that no other special events are included in the existing CUP, and there are ten included with the amended CUP. He stated there is a potential for additional traffic impact from the use of the field by outside groups.

**Judith Greig**, on behalf of NDNU, stated that the City should support NDNU's use of its own field, should allow others to use the field, and should expand the field's use on Sundays. She noted that the University does not plan to host other large events.

Councilmember Feierbach stated that this is a complex issue, especially as it relates to CEQA.

**ACTION:** On a motion by Councilmember Feierbach, seconded by Councilmember Braunstein, the Public Hearing was unanimously closed by a show of hands (4-0, Lieberman recused), and the matter continued to the Regular Meeting of November 9, 2010.

**RECESS: 10:00 P.M.**

**RECONVENE: 10:05 P.M.**

At this time, Councilmember Lieberman returned to the dais.

## **COMMISSION, COMMITTEE, AND COUNCIL INTERGOVERNMENTAL ASSIGNMENT UPDATES, AND STAFF ITEMS**

### **Verbal report from Councilmembers on Intergovernmental (IGR) and Subcommittee Assignments**

Councilmember Lieberman stated that the recent Belmont-San Carlos Fire Commission meeting consisted mainly of a closed session.

Mayor Wozniak provided an update on high speed rail. She noted that the City of Brisbane has joined the Peninsula Cities Consortium (PCC), and that a federal grant was approved. She also attended a Traffic Congestion Relief Alliance meeting, and noted that the organization is looking into bus and shuttle service.

### **Report from Audit Committee**

City Treasurer Violet stated that the Audit Committee, which includes Vice Mayor Feierbach and Councilmember Braunstein, met with the City's outside auditor. He noted that acceptance of the reports by the City Council will allow the reports to be made public. He explained the process available to discuss any concerns with the auditor, and noted there were no issues to discuss, and the option was not exercised. He noted that the goals of investments are stability, liquidity, and return. He explained that the reports will be transmitted to the Finance Commission.



City Treasurer Violet stated that no changes in procedures are proposed as a result of the audit. He also noted that the contract for the independent reviewer will now be on an on-call basis rather than retainer, as a cost-savings measure. He commended the City's Finance Department staff for its efforts in making the audit a smooth process. He noted that the financial reports will be forwarded to all bond holders.

Councilmember Braunstein commended staff for working late hours to complete the financial reports. He noted that Belmont's reports were the first published by the auditor.

City Treasurer Violet stated that there are fewer issues and control points than in previous years. He noted that staff is still transitioning to the new financial accounting software and reporting.

**ACTION:** On a motion by Councilmember Braunstein, seconded by Councilmember Feierbach, and unanimously approved by a show of hands to accept the Audit Report/Financials and to release them publicly.

### **Update on High Speed Rail**

Community Development Director de Melo described the City of Burlingame's recent experience with story poles. He noted that they were removed several days after being installed. He described the draft letter to request federal funding for mitigations for the Peninsula portion of the project. He noted that approximately 12 people have requested appointment to the High Speed Rail Ad Hoc Committee.

Mayor Wozniak stated that visual representation of the high speed rail project is needed, included project width, beyond just the use of story poles. She noted that the story poles installed by the City of Burlingame provided a good visual.

City Manager Scoles explained the security issues surrounding the installation of story poles. He noted that Caltrain was going to charge the City of Burlingame for flagmen, which could be expensive.

Councilmember Warden recommended that the ad hoc committee address this issue. He expressed support for story poles or other visual representation, but does not want to spend money to do so.

Discussion ensued.

**MEETING EXTENSION**, at this time, being 10:30 P.M., on a motion by Councilmember Warden, seconded by Councilmember Lieberman, the meeting was unanimously extended for 30 minutes by a show of hands.

Mayor Wozniak suggested using existing infrastructure to provide a visual representation of the project in the City of Belmont.

Council concurred to have staff explore options.

Mayor Wozniak discussed the proposed letter requesting federal funding. She noted that the City of Belmont would be asking for money but are being told that cities cannot get what they want.

Community Development Director de Melo stated that the grant money could provide funding for additional study.

Council concurred to have staff draft a letter requesting additional federal funding for the Mayor's signature.

Mayor Wozniak encouraged attendance at PCC meetings. She noted that the City of Palo Alto does not want a high speed rail station as it will generate traffic but will not provide revenue or bring people into the City.

Councilmember Feierbach noted the upcoming rally on this issue in Burlingame.

**Verbal report from City Manager**

City Manager Scoles stated that the city managers in San Mateo recently met to discuss shared services models. He noted that a Memorandum of Understanding has been signed with the City of San Bruno regarding reimbursement for fire response. He announced that the City of San Carlos forwarded a Request for Proposal (RFP) to the City of Belmont for fire services.

Mayor Wozniak noted that there will likely be a reduction in the availability of natural gas this winter due to the San Bruno pipeline situation.

**ADJOURNMENT** at this time, being 10:40 P.M. to consider Continued Closed Session.

**CONTINUED CLOSED SESSION**

- C. Conference with Real Property Negotiator Scoles pursuant to Government Code Section 54956.8: One Parcel: APN 045-244-010
- D. Conference Pursuant to Government Code Section 54957 Regarding Public Employee Performance Evaluation: City Attorney

Attended by: Councilmembers Feierbach, Wozniak, Lieberman, City Manager Scoles, Community Development Director de Melo, Finance Director Fil, City Attorney Zafferano. Councilmember Warden was absent and City Clerk Cook was excused from attending.

**ADJOURNMENT** at this time being 11:30 P.M.

**Terri Cook  
City Clerk**

Meeting Tape Recorded and Videotaped (not Closed Session)  
Audio Recording 771